



The State of New Hampshire
Department of Environmental Services

Clark B. Freise, Acting Commissioner



January 11, 2017

The Honorable Chris Christensen
Chair, Resources Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB77-FN, An Act relative to dam fees for nonprofit organizations

Dear Chair Christensen and Members of the Committee:

Thank you for the opportunity to testify on HB77. This bill would allow the New Hampshire Department of Environmental Services (NHDES) to waive, for nonprofit organizations, the fees for a permit to construct or reconstruct a dam required under RSA 482:9. NHDES has concerns about this bill and does not support it.

Under RSA 482:9, dam owners must submit a fee to register an unregistered dam, or construct or reconstruct a dam. The fee is based on the hazard classification of the dam, and its purpose is to partially fund the costs for NHDES Dam Safety Engineers to review the plans and specifications for the project to ensure that it is designed and built in accordance with State dam safety standards and best dam engineering practices to reduce the risk of failure, which could cause loss of life and significant property damage downstream, as well as the loss of the pond, itself.

For a High Hazard Dam, the failure of which would inundate houses or other occupied structures downstream and likely cause loss of life, the permit application fee is \$4,000. The fee is also \$4,000 for a Significant Hazard Dam, the failure of which would cause major property damage downstream. For a Low Hazard Dam, the failure of which would cause minor property damage downstream such as damage to a town or city road, the permit application fee is \$3,000. For a Non-Hazardous Dam, the fee is \$2,000. Typically, the permit application fee is less than 1% of the the cost of a dam reconstruction project. Also, under 482:9, a permit and associated fee are required only for the construction or reconstruction of a dam, and no permits or fees are required for repairs to a dam, such as concrete refacing or gate rehabilitation, that do not change the height, length, discharge capacity or structural loading of the dam.

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One of the first concerns with the bill is that it exempts a select category of dam owners from paying the fee that supports the review needed to ensure that the dam is safe when constructed to reduce the risk of failure and loss of life and property downstream. The costs of that review, which will still need to be performed, will have to be borne by the State and the fees collected from all other dam owners. Also, the bill does not provide a definition of nonprofit organization. There are 2,620 dams in the State of New Hampshire. Of these, only approximately 250 dams produce revenue directly through the generation of hydropower, the supply of drinking water, or the storage of sewage. More than 75% of the 2,620 dams are owned by private organizations or individuals, and many privately-owned dams are owned by families or individuals that do not generate profits. Likewise, the state and its municipalities, which own the remainder of the dams, can be considered nonprofit organizations. Exempting all these groups from dam fees would essentially eliminate all dam permit fees, which partially fund the review of plans and specifications for dams to ensure that they are designed and built in accordance with State dam safety standards and best dam engineering practices to reduce the risk of failure. Lastly, the bill currently states that the NHDES may waive the fee for nonprofit organizations, but provides no criteria on which NHDES should base its decision on whether or not to waive the fee, and fails to provide explicit rulemaking authority for this purpose.

In view of these concerns, NHDES does not support the bill

Thank you again for the opportunity to comment on HB77-FN. Should you have further questions or need additional information, please feel free to contact either Jim Gallagher, Dam Bureau Administrator, (James.Gallagher@des.nh.gov, 271-1961) or me (Clark.Freise@des.nh.gov, 271-8806).

Sincerely,



Clark B. Freise
Acting Commissioner

cc: Sponsor of HB77-FN: Representative Avellani

